

10.9 Replacement Power (“RP”).

- a. MPCL shall supply PELCO I any RP and PELCO I shall pay the rate of RP outside the Facility, if applicable, shall be the lower between: (i) the actual rate of the Replacement Power; or (ii) the generation rate based on the approved tariff for the PSA.
- b. For RP, if the resulting Line Rental (“LR”) charges is lower than the LR from the Facility, PELCO I and MPCL shall shoulder equally (i.e., 50%-50%) any positive or negative line rental charges (Section 12 of the PSA).
- c. For RP, if the resulting Line Rental charges is higher than the Line Rental from the Facility, any positive difference therefrom shall be for the account of MPCL while the remainder shall be shared in accordance with Section 12 of the PSA.
- d. PELCO I’s LR Charge for Replacement Energy shall be calculated as follows (Section 10.3 of the PSA):
- e. Buyer’s Line Rental Charge for Replacement Energy shall be calculated as follows:

$$BLRC = 50\% \times \text{Min}(LR_{RP}, LR_{FACILITY}) \times TRED_{RP}$$

$$LR_{RP} = \frac{\text{Total } LRC_{RP}}{TRED_{RP}}$$

$$LR_{FACILITY} = \frac{\text{Total } LRC_{FACILITY}}{TED_{FACILITY}}$$

Where:	
BLRC	Buyer’s Line Rental Charge for Replacement Energy for a Billing Period, in PhP
LR _{RP}	Line Rental rate from the Replacement Power Plant, in PhP/kWh
LR _{FACILITY}	Line Rental rate from the Facility, in PhP/kWh
Note:	
If the Seller supplies from the Facility at <u>any</u> interval within a Billing Period, the LR _{FACILITY} shall be determined based on the Line Rental rate from the Facility during the present Billing Period, excluding intervals affected by a Force Majeure event/s or intervals when the Facility is on outage.	
If the Seller is unable to supply from the Facility for <u>all</u> intervals within a Billing Period, the LR _{FACILITY} shall be determined based on the Line Rental rate from the Facility during the most recent regular Billing Period. A “regular Billing Period” refers to a Billing Period in which no Force Majeure event occurs.	
Total LRC _{RP}	Total Line Rental charges from the Replacement Power Plant, in Php, in a Billing Period
TRED _{RP}	Total Replacement Energy Delivered from the Replacement Power Plant to Buyer Delivery Point, in kWh, in a Billing Period
Total LRC _{FACILITY}	Total Line Rental charges from the FACILITY, in Php, in a Billing Period
TED _{FACILITY}	Total Energy Delivered from the Facility to Buyer Delivery Point, in kWh, in a Billing Period

- f. Failure by MPCL to provide the RP under Section 10.3.1 of the PSA, PELCO I shall source RP at the expense of MPCL. MPCL shall shoulder the positive difference between the RP cost and the generation rate based on the approved tariff for this PSA including the total line rental, if any.

10.10 Line Rental (“LR”). For each Billing Period, PELCO I and MPCL shall shoulder equally (i.e., 50%-50%) any positive or negative line rental charges. Except for line rental charges, all WESM charges duly attributable to PELCO I shall be borne by PELCO I, and all WESM charges duly attributable to MPCL shall be borne by MPCL.

10.11 Taxes. All present and future national, local, or other lawful taxes, duties, levies, or other impositions applicable to MPCL, the Facility, and MPCL’s other assets shall be paid by MPCL in a timely manner, including any adjustments thereon. Conversely, all present and future national, local, or other lawful taxes, duties, levies, or other impositions applicable to PELCO I arising from or in connection with its rights and obligations under the PSA shall be paid by PELCO I in a timely manner, including any adjustments thereon.

10.12 Prompt Payment Discount (“PPD”). MPCL shall extend a three percent (3%) PPD on the non-fuel fees (CRF, FOM Fee and VOM Fee) to PELCO I if payment is made within fifteen (15) Days from receipt of MPCL’s power bill invoice, and PELCO I is up to date with all its payment obligations under the PSA.

10.13 Performance Bond (“PB”). MPCL shall post and maintain a PS in an amount computed as follows:

$$\text{Performance Bond} = 2,190(\text{hr}) \times CCn \times 65\% \times 6.3527 (\text{Php} / \text{kWhr})$$

Where CCn shall be the average Contract Capacity of PELCO I for the subsequent Contract Year.

10.14 Security Deposit (“SD”). If PELCO I fails to fully pay an MPCL Invoice after the Cure Period provided in Section 17.1 (a) of the PSA, MPCL may require PELCO I to post a Security Deposit. PELCO I shall act on this request within thirty (30) Days from receipt of MPCL’s request to post a SD. The SD shall be equivalent to the lowest monthly MPCL Invoice for the Billing Periods from the Delivery Date, but in no case longer than the most recent twelve (12) Billing Periods from Default.

10.15 Reduction in Contract Capacity and Contract Energy. PELCO I, at any Billing Period, shall be entitled to a reduction in the Contract Capacity and Contract Energy equivalent to the reduction in the demand owing to the implementation of the Retail Competition and Open Access (“RCOA”), Renewable Portfolio Standards (“RPS”), Green Energy Option Program (“GEOP”), and other similar government programs.

RATE IMPACT ON PELCO I’S OVERALL GENERATION RATE

11. PELCO I simulated a rate impact based on its 2025 forecast energy requirements. The simulation used the contract energy and prices of its existing and incoming power suppliers. It also includes the energy exposed in the WESM in 2025. The monthly average local marginal prices at PELCO I’s trading nodes in 2023 and 2024 were used in the simulation.

12. The simulation resulted in an estimated average effective rate of PhP 5.6483/kWh, or a reduction of PhP 0.0011/kWh with MPCL supplying 5,000 kW in 2025.

Estimated Generation Charge (PhP/kWh) in 2025 Using the WESM Prices in 2023			
2025	Without MPCL (Blended Rates of Power Suppliers) (A)	With MPCL (Blended Rates of Power Suppliers) (B)	Equivalent Rate Impact (A-B)
Average	5.7367	5.6992	(0.0375)

Estimated Generation Charge (PhP/kWh) in 2025 Using the WESM Prices in 2024			
2025	Without MPCL (Blended Rates of Power Suppliers) (A)	With MPCL (Blended Rates of Power Suppliers) (B)	Equivalent Rate Impact (A-B)
Average	5.5623	5.5975	0.0352
2-Year Average	5.6495	5.6483	(0.0011)

13. As can be gleaned from the above rate simulation, MPCL’s entry as PELCO I’s baseload power supplier would result in a net reduction of generation cost to PELCO I, which would subsequently redound to the benefit of PELCO I consumers. It will also contribute in protecting the consumers from an increase in electricity rate from the volatile prices of electricity in the WESM.

14. Likewise, the Applicants provide the following documents for the evaluation of the Joint Application:

Description of Document	Annex
Power Supply Agreement (PSA) between PELCO I and MPCL	“A”
Executive Summary of the PSA	“A-1”
Certification on Documents Previously Submitted by PELCO I	“B”
PELCO I Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, Average Daily Load Curve	“C”
PELCO I DDP	“C-1”
PELCO I PSPP	“C-2”
Single-line Diagram Connection	“D”
Performance Assessment of the System: 5-Year Historical Reliability Indices (SAIFI and SAIDI)	“E”

Estimated potential reduction in load supplied by PELCO I due to Retail Competition	“F”
Certified True Copy of the Wholesale Electricity Spot Market (WESM) Registration of PELCO I	“G”
Terms of Reference (“TOR”)	“H”
Notice of Award	“I”
Posting of the Performance Bond	“J”
Notice to Proceed	“K”
PELCO I Rate Impact Simulation	“L”
Secretary Certificate of PELCO I for the Joint Filing of the PSA to ERC	“M”
Affidavit of Engr. Oliver S. Vergara in support of the prayer for Provisional Authority or Interim Relief	“N”
MPCL’s 2024 Amended Articles of Partnership	“O”
Verified Certification of MPCL showing list of Board of Directors and Board Members of the ultimate parent company, its subsidiaries, and all its affiliates.	“P”
MPCL’s Generation Rate, Derivation, and Related Documents*	“Q” and series
MPCL’s Sample Bill to PELCO I	“R”
MPCL’s Write-up on Capability to Serve PELCO I’s Supply Requirement	“S”
MPCL’s Provisional Authority to Operate	“X”
MPCL’s (then Masinloc Power Partners Co. Ltd.) Operation and Maintenance Agreement (“OMA”)*	“Y”
MPCL’s Explanation on OMA	“Y-1”
MPCL’s Request for Amendment of the Certificate of Endorsement to the Power Development Plan	“Z”
MPCL’s Secretary’s Certificate	“AA”
MPCL’s Certificate of Email Registration	“BB”

* Subject of the Motion for Confidential Treatment of Information

MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

15. Under the ERC Revised Rules of Practice and Procedure, a party to any proceeding before the Honorable Commission may request that certain information not be disclosed and be treated as confidential.⁸ Pursuant to this, Applicants PELCO I and MPCL pray for the confidential treatment of the information contained in the following annexes:

Documents and/or Information	Annex
MPCL’s Generation Rate, Derivation, and Related Documents (Confidential)*	“Q” and series
MPCL’s BOI Certificates (Confidential)*	“W and “W-1”
MPCL’s (then Masinloc Power Partners Co. Ltd.) Operation and Maintenance Agreement (Confidential)*	“Y”

16. Annexes “Q”, “W”, “W-1” and “Y” contain the details concerning the financial plans and power rate calculations of MPCL as well as the manner and details by which these were derived. The subject information are proprietary in nature and should be protected as trade secrets as contemplated by law and jurisprudence. In the case of *Air Philippines Corporation vs. Pennswell, Inc.*⁹, the Supreme Court defined a trade secret, as follows:

“A trade secret may consist of any formula, pattern, device, or compilation of information that: (1) is used in one’s business; and (2) gives the employer an opportunity to obtain an advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous use in the operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights. The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information “in confidence” or through a “confidential relationship”. American jurisprudence has utilized the following factors to determine if an information is a trade secret, to wit:

- the extent to which the information is known outside of the employer’s business;
- the extent to which the information is known by employees and others involved in the business;
- the extent of measures taken by the employer to guard the secrecy of the information;
- the value of the information to the employer and to competitors;
- the amount of effort or money expended by the company in developing the information; and
- the extent to which the information could be easily or readily obtained through an independent source.” (citations omitted, emphasis supplied)

The interest of the consuming public is sufficiently protected by the review and evaluation of the rates under the PSA by the Honorable Commission, without the need to disclose the contents of Annexes “Q”, “W”, “W-1” and “Y”. The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of MPCL’s generation costs.

More importantly, competitors of MPCL, should they obtain the information in Annexes “Q”, “W”, “W-1” and “Y” may gain undue advantage to the prejudice of MPCL.

17. Joint Applicants hereby submit one (1) copy of the confidential documents in a sealed envelope, with the envelope and each page of the document stamped with the word “Confidential”.¹⁰

18. Further, Joint Applicants would like to implore the discerning wisdom of the Honorable Commission to include in its issuance for this purpose the “procedures for the handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period provided in this Rule”.

19. This is guided by the fact that Joint Applicants will seek for the return of these sought to be declared confidential annexes after its utilization as evidence in this case and/or at the close of the proceedings hereof, so as to relieve the Honorable Commission of the burden of safekeeping the trade secrets of MPCL enclosed in the subject annexes.

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY OR INTERIM RELIEF

20. Under Rule 14, Section 1 of the ERC Revised Rules of Practice and Procedure, the Honorable Commission may issue a provisional authority or interim relief prior to a final decision, provided the facts and circumstances alleged warrant such remedy.

21. The PELCO I’s 36 MW peaking power supply under Contract for Supply of Electric Energy (CSEE) with the Power Sector Assets and Liabilities Corporation (PSALM) has expired on December 25, 2024.

22. With the current limitations on the available capacity in the Luzon Grid, PELCO I must immediately source its power supply from MPCL to achieve energy security and to avoid potential power outages in PELCO I’s franchise area.

23. The latest PELCO I’s DDP shows an increasing demand and energy requirements of its new and current customers in 2025-2034.

24. Without the supply of MPCL, PELCO I will be severely exposed to volatile prices in the Wholesale Electricity Spot Market (“WESM”). Consequently, the PELCO I’s generation charge will be adversely affected to the prejudice of its customers.

25. As shown in the rate impact simulation, the subject PSA would provide PELCO I’s customers up to PhP 0.0011/kWh average rate reduction in their monthly electricity bill in 2025.

26. The implementation of the PSA with MPCL will enable PELCO I to continuously provide its customers with stable, reliable, secured, and long-term power supply at cheaper electricity rate.

27. The grant of a provisional authority or interim relief will allow PELCO I to have a steady, continuous, secured, and reliable source of electricity, which will immediately redound to the benefit of

⁸ Section 1, Rule 4, Revised Rules of Practice and Procedure of the ERC Resolution No. 01, series of 2021

⁹ G.R. No. 172835, December 13, 2007

¹⁰ Soft copies of the same to be provided to this Honorable Commission are password protected.

PELCO I’s customers in terms of providing a more affordable rate. To support the Motion for Provisional Authority, the Affidavit of Engr. Oliver S. Vergara, the PELCO I’s Corporate Planning Department Manager, is attached as Annex “N” of the Application.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Commission:

(i) ISSUE an Order treating Annexes “Q”, “W”, “W-1” and “Y” as confidential in perpetuity, directing their non-disclosure to persons other than the officers and staff of the Honorable Commission, perpetually protecting the said information from public disclosure by maintaining the same separate and apart from the records of the case, ensuring that these are not divulged to unauthorized persons, and that these confidential documents are returned to PELCO I and MPCL after the termination of this case pursuant to Rule 4 of its Rules of Practice and Procedure;

(ii) Pending trial on the merits, GRANT provisional authority or interim relief allowing the implementation of the PSA including all the rates, fees, charges, and tariff adjustment mechanisms set out therein at the rates provided in the PSA and authorizing PELCO I to charge and collect such rates, fees, charges, and tariff adjustment therein from its customers reckoned from the start of the supply by MPCL to PELCO I under the PSA subject of this Joint Application; and

(iii) After hearing on the merits, ISSUE a Decision approving the Joint Application and the PSA between PELCO I and MPCL, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein at the rates provided in the PSA, and authorizing PELCO I to charge and collect such rates, fees, charges, and tariff adjustments therein from its end-users reckoned from the start of the supply by MPCL to PELCO I under the PSA.

Other relief just and reasonable are likewise prayed for.

Cainta, Rizal and Pasig City for Pasig City, 28 March 2025.

PAMPANGA I ELECTRIC COOPERATIVE, INC.

By:

ARNIDO O. INUMERABLE
Counsel for PELCO I

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MCLE Compliance No. VII-002592; 23 January 2023
Roll of Attorneys No. [REDACTED]

(Signature page for the counsels of MPCL will follow)

MASINLOC POWER CO. LTD.¹¹

By:

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IBP No. [REDACTED] / Lifetime / PLM Chapter
MCLE Compliance No. VII - 0020279 / 02 June 2022
Roll No. [REDACTED]

VERIFICATION AND CERTIFICATION AGAINST FORUM SHOPPING

I, ENGR. ALLAN E. DAVID, of legal age, Filipino, and with office address at PELCO I in Sto. Domingo, Mexico, Pampanga, after having sworn in accordance with law, depose and state that:

- I am the General Manager of Pampanga I Electric Cooperative, Inc. (“PELCO I”) and duly authorized by the Board of Directors to file or cause the filing of the Joint Application, entitled “In The Matter of the Joint Application for Approval of Power Supply Agreement Between Pampanga I Electric Cooperative, Inc. (PELCO I) and Masinloc Power Co. Ltd. (MPCL), with Motion for Confidential Treatment of Information and Prayer for Provisional Authority or Interim Relief”, to the Energy Regulatory Commission (“ERC”).
- PELCO I, together with MPCL has caused the preparation and filing of the foregoing Joint Application. I have read and understood the Joint Application and attest that all contents and allegations contained therein, and certify that the same are true and correct based on my personal knowledge and on authentic records of PELCO I.
- The Joint Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation. Moreover, the factual allegations in the Joint Application have evidentiary support, or if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.
- Neither I nor PELCO I has commenced any action or proceeding involving the same or similar issues before any court, tribunal or quasi-judicial agency, and to the best of my knowledge no such action or proceeding is pending, and if I should learn that the same or similar action or proceeding has been filed or is pending, I undertake to report such fact to this Honorable Commission, within five (5) days thereafter.

ENGR. ALLAN E. DAVID
Affiant

SUBSCRIBED AND SWORN to before me this day of MAR 28 2025 at the City of San Fernando, Pampanga. Affiant exhibited to me his Social Security System Identification No. [REDACTED]

Doc. No.: [REDACTED]
Page No.: [REDACTED]
Book No.: [REDACTED]
Series of 2025.

I, ELENITA D. GO, Filipino, of legal age, and with office address at the 5th Floor, 100 Eulogio Rodriguez Jr. Avenue C5 Road (North Bound) Pasig City, after having been duly sworn to in accordance with law, hereby depose and state, that:

- I am the authorized representative of Masinloc Power Co. Ltd. (“MPCL”), a co-applicant in the Joint Application for Approval of the Power Supply Agreement between Pampanga I Electric Cooperative, Inc. (“PELCO I”) and Masinloc Power Co. Ltd. (“MPCL”);
- I have caused the preparation and filing of the Joint Application and that I have read the contents thereof and aver that all the factual/legal allegations contained therein are true and correct based on my personal knowledge and/or on authentic documents/official records;
- The Joint Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation and that the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery; and,
- I hereby certify that MPCL has not filed/commenced any action or proceeding arising from the same issues raised in the Joint Application before the Supreme Court, Court of Appeals, or any other courts or tribunals or quasi-judicial bodies/agencies and to the best of my knowledge, no such other similar action or claim is pending therein. If ever there is a case pending before the said courts or tribunals involving the same issues, I undertake to inform the Honorable Energy Regulatory Commission of such fact within five (5) calendar days from knowledge thereof.

I am executing this undertaking in support of the Joint Application and the veracity of the allegations therein as well as for any other legal purpose this may serve.

IN WITNESS WHEREOF, I have hereunto set my hand this MAR 28 2025 at Pasig City.

ELENITA D. GO
Affiant

SUBSCRIBED AND SWORN to before me this day of MAR 28 2025 in Pasig City. Affiant personally appeared and exhibited to me her Philippine Passport No. [REDACTED] issued on June 7, 2019 at the DFA NCR East as her competent proof of identity

Doc. No.: [REDACTED]
Page No.: [REDACTED]
Book No.: [REDACTED]
Series of 2025.



¹¹ Other Registered Email: regulatorycompliance@smcgrp.sanmiguel.com.ph